

BEFORE THE
CALIFORNIA HORSE RACING BOARD
STATE OF CALIFORNIA

In the Matter of the:)	
)	
Appeal from Board of Stewards Ruling)	Case No. SAC 98-030
#6, Pacific Racing Association,)	
Dated April 5, 1998)	OAH No. N 1998070295
)	
JOHN F. MARTIN, IV)	
)	
Appellant.)	
_____)	

PROPOSED DECISION

Ruth S. Astle, Administrative Law Judge of the Office of Administrative Hearings, State of California, heard this matter on August 27, 1998, in Oakland, California.

Mary S. Cain, Deputy Attorney General, represented the complainant.

David M. Shell, Attorney at Law, 8788 Elk Grove Boulevard, Building 2, Suite F, Elk Grove, California 95624, represented John F. Martin, IV who was not present at the hearing.

Submission of the matter was deferred to October 2, 1998 for receipt of written argument, which was received and considered. This matter was consolidated for hearing with Case No. SAC 98-29, which has the same OAH number.

BACKGROUND

On April 5, 1998 the Board of Stewards, Pacific Racing Association issued their ruling #6 that:

“Owner/Trainer John F. Martin, who started the horse PAPA JOHN, third place finisher in the seventh race at the California State Fair in Sacramento on August 31, 1997, is suspended one hundred and eighty (180) days (April 8, 1998 through October 4, 1998) pursuant to California Horse Racing Board rule #1887 (a) (Trainer to Insure Condition of Horse) for violation of California Horse Racing Board rule #1843(a, b, d) (Medication Drugs and Other Substances – Lidocaine).

“During the term of suspension, all licenses and license privileges of John F. Martin are suspended and pursuant to California Horse Racing Board rule #1528 (Jurisdiction of Stewards), he is denied access to all premises in this jurisdiction.”

On April 6, 1998 John F. Martin (respondent) filed an appeal and requested a stay. On April 7, 1998 the stay was denied. On April 8, 1998 the Superior Court of the County of Sacramento issued an Order Granting Temporary Stay and Leave to Amend Petition. A hearing was held on January 31, February 1, and March 22, 1998.

FACTUAL FINDINGS

The Board of Stewards, in taking action against the license held by respondent, did not issue a written decision that included a statement of the factual and legal basis for the decision as required by the Administrative Procedure Act. The Administrative Procedure Act that went into effect July 1, 1997 applies to proceedings before the Board of Stewards.¹ It is impossible to tell from the record on what evidence and testimony the Board of Stewards relied in coming to their conclusions.

LEGAL CONCLUSIONS

Whether or not there is evidence to support the Board of Stewards' disciplinary action is not addressed in this decision. The lack of a written decision with the factual and legal basis requires that the matter be remanded to the Board of Stewards in order to meet the requirements of Government Code sections 11425.50 and 11425.10.

¹ A decision by the Horse Racing Board, effective July 23, 1998 in the case of Bobby Jennings, Sr., Ruling #3, Pacific Racing Association dated November 26, 1997 adopted the Findings that the Stewards' decision must be based on the record, must be in writing and must include a statement of factual and legal basis of the decision as provided in Government Code section 11425.50.

ORDER

The Appeal of John F. Martin, IV is granted. Board of Stewards' Ruling Number 6, dated April 5, 1998 is vacated; and the matter is remanded for further proceedings consistent with Government Code section 11425.10.

DATED: _____

RUTH S. ASTLE
Administrative Law Judge
Office of Administrative Hearings